

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harry Feigen	Team: Squad #13	CCRB Case #: 201510469	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 12/04/2015 8:00 PM	Location of Incident: § 87(2)(b) [REDACTED]	Precinct: 62	18 Mo. SOL 6/4/2017	EO SOL 6/4/2017	
Date/Time CV Reported Sun, 12/06/2015 1:05 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 12/11/2015 11:08 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Christian Rustand	09835	947843	062 PCT
2. POM Frank Tornabene	08205	951342	062 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Florin Coste	18939	950241	062 PCT
2. POM John Sellitti	22366	935721	062 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Frank Tornabene	Abuse: At the § 87(2)(b) [REDACTED] in Brooklyn, PO Frank Tornabene did not obtain medical treatment for § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Christian Rustand	Abuse: At the 62nd Precinct stationhouse, PO Christian Rustand did not obtain medical treatment for § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On December 6, 2015, § 87(2)(b) filed this complaint with IAB by phone, generating log number 15-37935. The case was received at the CCRB on December 11, 2015.

On December 4, 2015, at approximately 8:00 p.m., § 87(2)(b) went to § 87(2)(b) in Brooklyn, the residence of § 87(2)(b) and began calling his wife, § 87(2)(b) on his phone. § 87(2)(b) and § 87(2)(b) are separated, and § 87(2)(b) was staying with § 87(2)(b) her current boyfriend. § 87(2)(b) and § 87(2)(b) had orders of protection against each other, but § 87(2)(b) nevertheless wanted to speak with § 87(2)(b).

After calling § 87(2)(b) several times, § 87(2)(b) walked to the end of the block (the intersection of Bay Parkway and 78th Street), where he was approached by § 87(2)(b) § 87(2)(b) punched § 87(2)(b) in his head, causing him to fall down. § 87(2)(b) sustained swelling to his buttocks and hand as a result, and also felt dizzy. § 87(2)(b) and § 87(2)(b) all called the police, and PO Christian Rustand and PO Frank Tornabene, both of the 62nd Precinct, arrived shortly afterwards in a marked vehicle. Almost immediately after these first officers arrived, PO Florin Coste and PO John Sellitti pulled up in a second vehicle, with § 87(2)(b) in the backseat.

PO Rustand and PO Tornabene placed § 87(2)(b) in handcuffs while PO Coste and PO Sellitti took statements from § 87(2)(b) and § 87(2)(b). § 87(2)(b) told PO Rustand and PO Tornabene that § 87(2)(b) had assaulted him, but PO Tornabene ignored this. § 87(2)(b) told PO Tornabene that his head and hand were in pain, and that he wanted to go to a hospital. § 87(2)(b)'s first language is Cantonese, but he knows English well enough to have conveyed his medical request. He did not provide any further description of his pain or injury, however. PO Tornabene did not say anything in response to § 87(2)(b) (**Allegation A**). § 87(2)(b) told PO Tornabene he needed medical treatment again, and again the officer did not respond. The officers then placed § 87(2)(b) in their vehicle and transported him to the 62nd Precinct stationhouse, where he was placed under arrest for § 87(2)(b).

While being held in a cell in the stationhouse, PO Rustand approached § 87(2)(b) to prepare arrest paperwork. § 87(2)(b) told PO Rustand that his head was still hurting, and that he still needed to go to a hospital. PO Rustand did not say anything in response to § 87(2)(b) and no ambulance was ever called for § 87(2)(b) (**Allegation B**).

§ 87(2)(b) went to see a private doctor on § 87(2)(b). He again complained of pain to his hand, buttock, and head, and was given a CT scan, which had negative results for cranial hemorrhaging, but he was prescribed Tylenol for pain.

Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation, due to § 87(2)(b)'s arrest.

- A notice of claim request was submitted to the NYC Comptroller's office on February 17, 2016. It was returned with negative results later that day.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint for [§ 87(2)(b)] and [§ 87(2)(b)]
- PO Tornabene has been a member of service for four years. This is the first CCRB allegation on his record.
- PO Christian Rustand has been a member of service for seven years. In case 200905178, a frisk allegation was substantiated against him. [§ 87(2)(g)]
[REDACTED]

Civilian Contact Attempts

[§ 87(2)(b)] provided a phone statement to the CCRB in English (her first language is Mandarin), and was subsequently scheduled for an appointment to provide an in-person statement at the CCRB. [§ 87(2)(b)] appeared for this appointment, but she requested a Mandarin speaker to conduct the interview. As none were available at that time, and [§ 87(2)(b)] refused to give a statement in English, [§ 87(2)(b)] was not interviewed on that date. [§ 87(2)(b)] was called on a subsequent date, and Inv. Wang spoke to her in Mandarin, but [§ 87(2)(b)] refused to schedule another appointment at the CCRB.

Two potential witnesses to the allegation in the stationhouse were identified by the prisoner holding pen roster from the 62nd Precinct: [§ 87(2)(b)] and [§ 87(2)(b)]. A phone statement was taken from [§ 87(2)(b)] but she claimed to have only been in the cells with [§ 87(2)(b)] for approximately a half hour, and she did not hear or see him interact with any police officers during that time. She stated that [§ 87(2)(b)] was speaking with another female in the cell area, but [§ 87(2)(b)] could not understand their conversation, as they were speaking Cantonese.

Letters were sent to [§ 87(2)(b)] in English and Chinese at the address listed on her arrest report. The phone number listed on her arrest report was called multiple times, but it was not in service. Searches of CTS, BADS, Whitepages.com, and Lexis Nexis for additional contact information for [§ 87(2)(b)] yielded negative results.

Findings and Recommendations

Allegation A: At the intersection of § 87(2)(b) in Brooklyn, PO Frank Tornabene did not obtain medical treatment for § 87(2)(b)

Allegation B: At the 62nd Precinct stationhouse, PO Christian Rustand did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) alleged that when § 87(2)(b) approached him at the intersection of § 87(2)(b), § 87(2)(b) punched him and knocked him to the ground, injuring § 87(2)(b)'s head, hand, and buttocks as a result (01 Board Review). § 87(2)(b) denied striking § 87(2)(b) and claimed to only have stood in front of § 87(2)(b)'s car to prevent him from entering it and thus leaving the scene (02 Board Review). § 87(2)(b) stated she did not observe § 87(2)(b) strike § 87(2)(b) but she claimed that § 87(2)(b) admitted to doing so to her after the incident (03 Board Review), and she also claimed that someone was assaulting her husband in her 911 call (04 Board Review). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Furthermore, § 87(2)(b) was consistent across his 911 call during the incident (05 Board Review), his original 311 complaint (06 Board Review), his statements in medical records (07 Board Review), his CCRB phone statement (08 Board Review), and his CCRB in-person statement as to being struck by § 87(2)(b) getting knocked to the ground, and sustaining injuries as a result. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

It is undisputed that PO Tornabene and PO Rustand placed § 87(2)(b) under arrest at the intersection of § 87(2)(b) in Brooklyn, and then transported § 87(2)(b) to the 62nd Precinct stationhouse without obtaining any medical treatment for him. Whether § 87(2)(b) requested medical treatment from the officers during the incident is in dispute, however.

§ 87(2)(b) stated that after he was placed in handcuffs by the officers, he told PO Tornabene, "My head and hand hurt really bad. I want to go to the hospital." PO Rustand was standing directly next to PO Tornabene at that time, but § 87(2)(b)'s request was directed at PO Tornabene. Neither officer said anything to § 87(2)(b) in response. § 87(2)(b) stated that he requested medical treatment in this manner two or three times in total at the scene of his arrest, but that none of the officers ever responded to him.

§ 87(2)(b) stated that § 87(2)(b) complained to the officers at the scene of his arrest that § 87(2)(b) had punched him in the head and pushed him. She corroborated that the officers did not

say anything in response to this. § 87(2)(b) then repeated to the officers that § 87(2)(b) had hit him, that he was in pain, and that he needed an ambulance.

PO Tornabene (09 Board Review) and PO Rustand (10 Board Review) denied that § 87(2)(b) ever complained of any injuries during the incident, or that he asked them to call for an ambulance. § 87(2)(b) also denied hearing § 87(2)(b) tell the officers he was injured or needed an ambulance, and PO Sellitti (11 Board Review) and PO Coste (12 Board Review) both denied hearing this as well, although they stated they were too far away to hear anything § 87(2)(b) said during the incident to PO Tornabene or PO Rustand.

§ 87(2)(b) further stated that while he was being held in a cell at the 62nd Precinct stationhouse, PO Rustand entered the cell area to prepare arrest paperwork for § 87(2)(b) § 87(2)(b) alleged that he told PO Rustand at this portion of the incident that his head was still hurting, and he still needed to go to a hospital. PO Rustand did not say anything in response, however, and did not call an ambulance for § 87(2)(b)

§ 87(2)(g)
[REDACTED]

According to Patrol Guide Procedure 210-04, an officer is required to request an ambulance and remove a prisoner to a hospital directly from the place of arrest if a prisoner requires medical attention (13 Board Review).

§ 87(2)(b)
[REDACTED]

Squad: 13

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date